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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 10.08.2016

+ W.P.(C) 6038/2016

IRYNA CHAKRYZHOVA Petitioner

versus

UNION OF INDIA & ANR Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. A.K. Bajpai with Mr. Rajeev L. Mahunta, Advocates.

For the Respondents: Mr. Neeraj Jain with Ms. Natasha Thakur, Advocates.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
10.08.2016**

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks a mandamus thereby directing the respondent No.2 to convert the Business visa of the petitioner into Entry (X) Visa and to reconsider the petitioner's application dated 24.06.2016 afresh.

2. It is contended that the petitioner is a citizen of Belarus and was last issued business visa, by the respondents, with multiple entries for a period of two years, which was to expire on 03.08.2016. At this juncture, it may be noted that this Court by an interim order dated 29.07.2016 directed the respondents to process the application for extension of the

visa of the petitioner. The visa of the petitioner has been extended till 16.08.2016.

3. The petitioner claims to be in a live-in relationship for the last 22 years with one Sh. Baldev Singh, who suffered hemorrhagic stroke on 06.05.2014 and was diagnosed with right hemiplegia with complete loss of speech. It is contended that the petitioner is the sole person responsible for taking care of Sh. Baldev Singh and her presence is constantly required for the same. It is contended that none of the family members of Sh. Baldev Singh are either in a position to take care of him or are in fact taking care of him. Sh. Baldev Singh is unable to take care and protect himself. It is contended that the petitioner is physically, mentally, financially and emotionally giving care to Sh. Baldev Singh, who is her live-in partner.

4. It is contended, that on account of the fact that the petitioner was taking care of Sh. Baldev Singh, she suffered loss in her business and, accordingly, has discontinued her business and is completely devoting time and attention to Sh. Baldev Singh.

5. The petitioner applied for conversion of the Business Visa into Entry (X) visa on 24.06.2016 through the online process. On 27.06.2016, the application was refused to be taken on record and the conversion of Business visa to Entry (X) visa was rejected on the ground of incomplete documentation. It is contended by the learned counsel for the petitioner that as far as the petitioner understands the sole reason for rejection is that the petitioner could not produce a marriage certificate of her marriage

with Sh. Baldev Singh.

6. It is contended that the case of the petitioner is that the petitioner is not married with Sh. Baldev Singh but is in live-in relationship in the nature of marriage with him for the last 22 years. Reliance is placed on the decision of the Single Bench of this Court in **Svetlana Kazankina & Ors. vs. Union of India & Anr.: (2015) 225 DLT 613** to contend that this Court had recognized the need to extend the benefit of rules/guidelines providing for extension of visa of foreigners married to an Indian national or foreigners though not married but in a live-in relationship in the nature of marriage with an Indian national. It is thus claimed that the petitioner should be extended similar benefits as is available to foreigners married to an Indian national.

7. Learned counsel for the respondents has contended that the rules framed by the respondents on the said subject are applicable only in the case of a foreign national, who is married to an Indian and submits a copy of the registered marriage certificate. It is contended that since the petitioner was not married, the application of the petitioner could not be entertained. Learned counsel for the respondents further submits that as per the information of the respondents there are litigations and complaints filed against the petitioner by the mother of Sh. Baldev Singh.

8. With regard to the decision in the case of ***Svetlana Kazankina*** (*supra*), learned counsel for the respondents submits that in terms of the directions therein, the respondents are taking a policy decision whether to extend the benefit of extension of visa as presently available to foreigners

married to Indian national and also to foreigners in a live-in relationship with Indian national. He submits that the matter is under active consideration. Learned counsel for the respondents further contends that in the said judgment, the learned Judge has also recognized that the question whether a relationship will fall within the expression “relationship in the nature of marriage” is relevant.

9. I am of the view that the ratio of the decision in **Svetlana Kazankina** (*supra*) would squarely apply to the case of the petitioner insofar as it permits a representation of a person in a live-in relationship to be considered by the respondents.

10. The petitioner has contended that she is in a live-in relationship with Sh. Baldev Singh for the last 22 years. The petitioner is also relying on certain confirmations by the children of Sh. Baldev Singh in favour of the petitioner. The contention is that the wife of Sh. Baldev Singh has deserted him and the mother of Sh. Baldev Singh is very aged and there is no other person who is in a position to take care of Sh. Baldev Singh.

11. All these alleged facts would be taken into account by the respondents while considering the question whether the relationship of the petitioner with Sh. Baldev Singh is in the nature of a marriage.

12. Accordingly, this petition is disposed of permitting the petitioner to file a detailed representation with the respondent No.2 Foreigner Regional Registration Office, (F&R Branch) at New Delhi within two days, as requested by the petitioner. The petitioner would also be given a preliminary hearing on her application on 12.08.2016 at 4:00 pm, as

consented to by the learned counsel for the respondents. The petitioner shall visit the office of the Foreigner Regional Registration Office (FRRO) and present her representation. The respondent No.2 shall consider the representation of the petitioner and take a decision thereon, in accordance with law, within a period of one month from the date of submission of the representation.

13. Since the visa of the petitioner is expiring on 16.08.2016, the petitioner would be leaving the country and the respondents would consider the request of the petitioner for extension of the business visa for a period of four weeks or till the decision on the representation of the petitioner, whichever is later.

14. The writ petition is disposed of in the above terms with liberty to the petitioner to take such remedies as may be available in law, in case, the petitioner is aggrieved by the decision of the respondent on the representation of the petitioner.

15. *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

August 10, 2016
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